

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

DORIAN STEPNEY, TRISTAN STEPNEY,	)	
DERRICK STEPNEY, and CYNTHIA	)	
STEPNEY, individually and on	)	
behalf of her minor children	)	
DARIUS STEPNEY, RODNEY STEPNEY and	)	
TONI STEPNEY,	)	07 C 5842
	)	
Plaintiffs,	)	
v.	)	Judge Zagel
	)	
CITY OF CHICAGO, City of Chicago Police	)	JURY TRIAL DEMANDED
Officers EMMETT MCCLENDON Star # 18077,	)	
MARK HEIN, Star # 19700, MELVIN BRANCH,	)	
Star # 16163, FRED WALLER, Star # 1822,	)	
BRIAN HAWKINS, Star # 18982,	)	
STEVEN MALDONADO, Star # 6223,	)	
MARTIN TERESI, Star # 11254,	)	
MIGUEL CUADRADO, Star # 5437, and	)	
ANTHONY SCHULZ, Star # 887,	)	
Defendants.	)	

**DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

Defendants, the City of Chicago ("City"), and Defendant Officers Emmett McClendon ("McClendon"), Mark Hein ("Hein"), Melvin Branch ("Branch"), Fred Waller ("Waller"), Brian Hawkins ("Hawkins"), Steven Maldonado ("Maldonado"), Martin Teresi ("Teresi"), Miguel Cuadrado ("Cuadrado"), and Anthony Schulz ("Schulz"), collectively ("Defendants"), by and through by one of their attorneys, Susan E. Sullivan of SWANSON MARTIN & BELL, LLP, and pursuant to Federal Rule of Civil Procedure 56, hereby move this Honorable Court for summary judgment on Plaintiffs' Third Amended Complaint. Specifically, Defendants move for judgment on: (1) Plaintiffs' Fourth Amendment claim of unlawful search of Plaintiffs' home as to Officers Hein, Waller, Hawkins, Maldonado, Teresi, and Schulz, as plead in Count I; (2) Plaintiffs' claim of excessive force as to Officers Hein, Branch, Waller, Maldonado, Teresi, Cuadrado, and Schulz, as

plead in Count II; (3) Plaintiffs' claim of unlawful detention as to Officers Waller, Maldonado, and Schulz, as plead in Count III; (4) Plaintiffs' claim of failure to intervene as to all Defendant Officers, as plead in Count IV; (5) Plaintiffs' common law claims of assault and battery as to Officers Hein, Branch, Waller, Maldonado, Teresi, Cuadrado, and Schulz, as plead in Count V; and (6) Plaintiffs' common law claims against the City of Chicago pursuant to respondeat superior and indemnification, as plead in Counts VI and VII, that are alleged to arise out of the common law claims of assault and battery against Officers Hein, Branch, Waller, Maldonado, Teresi, Cuadrado, and Schulz. In support of this motion, Defendants state as follows:

1. In Plaintiffs' Third Amended Complaint, all Plaintiffs allege that Defendant Officers are liable to them pursuant to federal and common law for unlawful search of their home, unlawful detention, and failure to intervene to prevent alleged constitutional violations. Plaintiffs Cynthia Stepney, Dorian Stepney, and Tristan Stepney also allege that Defendant Officers are liable to them pursuant to federal and common law for excessive force and assault and battery. Finally, Plaintiffs allege that the City is liable to them pursuant to respondeat superior and indemnification arising out of Plaintiffs Cynthia Stepney, Dorian Stepney, and Tristan Stepney's common law claims of assault and battery against Defendant Officers.

2. The undisputed facts demonstrate that Defendant Officers are entitled to partial judgment as a matter law on Plaintiffs' Third Amended Complaint because Plaintiffs have failed to adduce any evidence upon which a reasonable jury could find that: (1) Officers Hein, Waller, Hawkins, Maldonado, Teresi, or Schulz unlawfully searched Plaintiffs' home; (2) Officers Hein, Branch, Waller, Maldonado, Teresi, Cuadrado, or Schulz used excessive against Plaintiffs Cynthia Stepney, Dorian Stepney, or Tristan Stepney; (3) Officers Waller, Maldonado, or Schulz unlawfully

detained any Plaintiff; (4) Any Defendant Officer failed to intervene to prevent any alleged constitutional violation; (5) Officers Hein, Branch, Waller, Maldonado, Teresi, Cuadrado, or Schulz assaulted or battered Plaintiffs Cynthia Stepney, Dorian Stepney, or Tristan Stepney; or that (6) The City is liable to Plaintiffs pursuant to respondeat superior and indemnification for the allegations of assault and battery against Officers Hein, Branch, Waller, Maldonado, Teresi, Cuadrado, or Schulz.

3. Based on these undisputed facts and on the relevant law, which are set forth in Defendants' memorandum in support of this motion and statement of uncontested facts filed in support of this motion, Defendant Officers and the City of Chicago are entitled to partial judgment as a matter of law on the Counts in Plaintiffs' Third Amended Complaint as set forth in Defendants' motion and memorandum.

WHEREFORE, for the reasons set forth above and in Defendants' memorandum in support of this motion, Defendants request that this Honorable Court enter judgment in favor of: (1) Officers Hein, Waller, Hawkins, Maldonado, Teresi, and Schulz on Count I; (2) Officers Hein, Branch, Waller, Maldonado, Teresi, Cuadrado, and Schulz on Count II; (3) Officers Waller, Maldonado, and Schulz on Count III; (4) All Defendant Officers on Count IV; (5) Officers Hein, Branch, Waller, Maldonado, Teresi, Cuadrado, and Schulz on Count V; and (6) the City of Chicago on Counts VI and VII for those claims that arise out of the common law claims against Officers Hein, Branch, Waller, Maldonado, Teresi, Cuadrado, and Schulz. Defendants also seek costs from Plaintiffs on behalf of any Defendant that is dismissed, or for any claim dismissed against any Defendant.

Respectfully submitted,

/s/ Susan E. Sullivan

Susan E. Sullivan

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*As Attorneys for Defendants*